

AMENDED IN ASSEMBLY APRIL 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2112

Introduced by Assembly Member Karnette

February 17, 2006

An act to amend Sections 91004 and 91007 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL’S DIGEST

AB 2112, as amended, Karnette. Political Reform Act of 1974: civil actions.

Under existing provisions of the Political Reform Act of 1974, a person who violates the reporting requirements specified in the act or makes or receives a contribution, gift, or expenditure in violation of specified provisions of the act is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction. Under the act, before filing a civil action, a person is required to first file with the civil prosecutor a written request for the civil prosecutor to commence the action. Under the act, if the civil prosecutor indicates an intent to file a civil action and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought by the requesting person unless the action brought by the civil prosecutor is dismissed without prejudice.

This bill would limit the number of these civil filings that could be made by an individual or group to 10 within the previous a 12-month period, *and would authorize a court to permit additional filings under specified circumstances*. The bill would also require that any person requesting that the prosecutor initiate a civil action include an affirmation that a copy of the written request has been provided to the

person against whom the action is being sought. This bill would also require a court, in setting the amount of a judgment, to consider any rules or regulations of the Fair Political Practices Commission for similar violations. The bill would also prohibit a civil action by a requesting person if the commission issues an administrative order or publishes a declaration of no violation, *except that a declaration of no violation may be appealed to the court and, under specified circumstances, the court may permit the action to be filed.*

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 91004 of the Government Code is
2 amended to read:
3 91004. Any person who intentionally or negligently violates
4 any of the reporting requirements of this title shall be liable in a
5 civil action brought by the civil prosecutor or by a person
6 residing within the jurisdiction for an amount not more than the
7 amount or value not properly reported. In exercising its
8 discretion to set the amount of a judgment under this section, the
9 court shall take into consideration any rules and regulations of
10 the commission applicable to similar violations.
11 SEC. 2. Section 91007 of the Government Code is amended
12 to read:
13 91007. (a) Any person, before filing a civil action pursuant to
14 Sections 91004 and 91005, must first file with the civil
15 prosecutor a written request for the civil prosecutor to commence
16 the action. The request shall include a statement of the grounds
17 for believing a cause of action exists, and shall include an
18 affirmation that a copy of the written request has been provided
19 to the person or persons against whom a cause of action is said to
20 exist. No person, or group of persons acting in concert, shall file
21 more than 10 of these written requests ~~within the previous~~ *in any*

1 12-month period. *Any person who is unable to file a written*
2 *request under this section because he or she has filed 10 or more*
3 *requests in a 12-month period may apply to the court for*
4 *permission to bring a civil action pursuant to Section 91004 or*
5 *91005. The court shall grant permission if it determines that the*
6 *civil action is in the public interest and the person has*
7 *established probable cause to believe that he or she will prevail*
8 *in the civil action.* The civil prosecutor shall respond to the
9 person in writing, indicating whether he or she intends to file a
10 civil action.

11 (1) If the civil prosecutor responds in the affirmative and files
12 suit, or the commission issues an order or publishes a declaration
13 of no violation pursuant to Section 83116, within 120 days from
14 receipt of the written request to commence the action, no other
15 action may be brought unless an action brought by the civil
16 prosecutor is dismissed without prejudice as provided for in
17 Section 91008, *except that a declaration of no violation may be*
18 *appealed to the court. If an appeal of a declaration of no*
19 *violation is filed, the court shall permit a civil action to be filed if*
20 *it determines that the appellant has established probable cause to*
21 *believe that a violation has occurred.*

22 (2) If the civil prosecutor responds in the negative within 120
23 days from receipt of the written request to commence the action,
24 the person requesting the action may proceed to file a civil action
25 upon receipt of the response from the civil prosecutor, provided
26 that the person against whom a cause of action is asserted has
27 actually and timely received the notice required in subdivision
28 (a), and further provided that the person filing the action, or
29 persons acting in concert with that person, has not filed 10 or
30 more written requests pursuant to this section within the previous
31 12-month period. If, pursuant to this subdivision, the civil
32 prosecutor does not respond within 120 days, the civil prosecutor
33 shall be deemed to have provided a negative written response to
34 the person requesting the action on the 120th day and the person
35 shall be deemed to have received that response.

36 (3) The time period within which a civil action shall be
37 commenced, as set forth in Section 91011, shall be tolled from
38 the date of receipt by the civil prosecutor of the written request to
39 either the date that the civil action is dismissed without prejudice
40 or the date of receipt by the person of the negative response from

1 the civil prosecutor, but only for a civil action brought by the
2 person who requested the civil prosecutor to commence the
3 action.

4 (b) Any person filing a complaint, cross-complaint, or other
5 initial pleading in a civil action pursuant to Section 91003,
6 91004, 91005, or 91005.5 shall, within 10 days of filing the
7 complaint, cross-complaint, or initial pleading, serve on the
8 commission a copy of the complaint, cross-complaint, or initial
9 pleading or a notice containing all of the following:

10 (1) The full title and number of the case.

11 (2) The court in which the case is pending.

12 (3) The name and address of the attorney for the person filing
13 the complaint, cross-complaint, or other initial pleading.

14 (4) A statement that the case raises issues under the Political
15 Reform Act of 1974.

16 (c) No complaint, cross-complaint, or other initial pleading
17 shall be dismissed for failure to comply with subdivision (b).

18 SEC. 3. The Legislature finds and declares that the provisions
19 of this act further the purposes of the Political Reform Act of
20 1974 within the meaning of subdivision (a) of Section 81012 of
21 the Government Code.